

Charles Lafferty Jr. #1082009  
Name

PO Box 1989, Ely, NV 89301  
Address

1082009  
Prison Number

FILED ENTERED	RECEIVED SERVED ON COUNSEL/PARTIES OF RECORD
MAY 25 2015	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: <u>[Signature]</u>	DEPUTY

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Charles Lafferty Jr.  
Plaintiff,

vs.

Warden Brian Williams

S/C.O. D. Roberson

C.O. Santos

Sgt. Glenn Fowler

Nurse John

Defendant(s).

CASE NO. 3:16-cv-00279  
(To be su.)

CIVIL RIGHTS COMPLAINT  
PURSUANT TO  
42 U.S.C. § 1983

~~Demanding Jury Trial~~

A. JURISDICTION

- 1) This complaint alleges that the civil rights of Plaintiff, Charles Lafferty Jr.  
(print Plaintiff's name)

who presently resides at Ely State Prison, were  
(mailing address or place of confinement)

violated by the actions of the below named individuals which were directed against

Plaintiff at Southern Desert Correctional Center on the following dates  
(institution/city where violation occurred)

2-9-2016, 2-9-2016, and \_\_\_\_\_  
(Count I) (Count II) (Count III)

Make a copy of this page to provide the below  
information if you are naming more than five (5) defendants

- 2) Defendant Bryan Williams resides at 20825 Cold Creek Rd Indian Springs NV  
(full name of first defendant) (address of first defendant) 89070

and is employed as Warden of SDCC. This defendant is sued in his/her  
(defendant's position and title, if any)

☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was

acting under color of law: Failed to assemble a use of force review panel as dictated by A.R. 405 to determine if force used was appropriate

- 3) Defendant D. Roberson resides at 20825 Cold Creek Rd Indian Springs NV  
(full name of first defendant) (address of first defendant) 89070

and is employed as Senior C.O. at SDCC. This defendant is sued in his/her  
(defendant's position and title, if any)

☒ individual ☐ official capacity. (Check one or both). Explain how this defendant was

acting under color of law: Defendant used an excessive as well as unnecessary amount of force

- 4) Defendant Santos resides at 20825 Cold Creek Rd Indian Springs NV  
(full name of first defendant) (address of first defendant) 89070

and is employed as Correctional Officer, SDCC. This defendant is sued in his/her  
(defendant's position and title, if any)

☒ individual ☐ official capacity. (Check one or both). Explain how this defendant was

acting under color of law: Defendant did not follow proper protocol regarding the use of chemical agents, spraying me while I posed no threat

- 5) Defendant Glenn Fowler resides at 20825 Cold Creek Rd Indian Springs NV  
(full name of first defendant) (address of first defendant) 89070

and is employed as Sergeant at SDCC. This defendant is sued in his/her  
(defendant's position and title, if any)

☒ individual ☐ official capacity. (Check one or both). Explain how this defendant was

acting under color of law: Defendant used an excessive as well as malicious force on me multiple times.

6) Defendant Nurse John resides at 20825 Cold Creek Rd, Indian Springs WV  
 (full name of first defendant) (address of first defendant) 89070

and is employed as Medical staff on duty. This defendant is sued in his/her  
 (defendant's position and title, if any)

☒ individual \_\_\_ official capacity. (Check one or both). Explain how this defendant was  
 acting under color of law: An unusual occurrence form was not  
 filled out and I was not medically evaluated as required.

7) Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish  
 to assert jurisdiction under different or additional statutes, list them below.

#### B. NATURE OF THE CASE

1) Briefly state the background of your case.

Under the eighth amendment my rights protecting  
 me from cruel and unusual punishment by excessive  
 use of force was violated. Defendants Glenn Fowler, D.  
 Roberson and Santos had a direct hand in these  
 violations. Defendant Glenn Fowler beat me severely while Defendant  
 D. Roberson held me. Defendant Santos, without warning sprayed me with a chemical  
 agent while I posed a threat no longer. My rights under the  
 eighth amendment protecting me from cruel and unusual punishment by a  
 refusal of medical treatment was violated directly by defendant Nurse John  
 (medical staff on duty) when they refused to exam me as is required after both  
 a use of chemical agents and a use of force. Defendant Brian Williams refused to  
 assemble the required panel whose job it would of been to determine if the force was appropriate.

## C. CAUSE OF ACTION

## COUNT I

The following civil right has been violated: My right protecting me against cruel and unusual punishment by an excessive use of force under the Eighth amendment

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

Defendant S/co D. Roberson and Trainee Dacken held me on the ground completely immobile while defendant Sgt. Glenn Fowler repeatedly struck me in the head with a closed fist upwards of fifteen times. Then after I was fully restrained and laying supine, face down on the ground Defendant C.O. Santos sprayed me in the face with chemical agents. This was done on the part of my face that had been previously abraded by Defendant Sgt. Glenn Fowler's attack. Also chemical agents were used without warning and without me posing a threat as I was fully restrained and had no opportunity to comply with any order given. Also for this violation I was carried from the scene of the incident in the crudest of fashions. Defendant S/co D. Roberson carried me by the chain on my shackles while Defendant Sgt. Glenn Fowler carried me by my hair. Lastly defendant Warden Brian Williams did not assemble a 'use of force review panel' as dictated by MDOC policy to determine the appropriateness of force used. (continued, p. 9).

## COUNT II

The following civil right has been violated: My right protecting me from cruel and unusual punishment by a refusal of medical treatment as stated under the Eighth Amendment.

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

Defendant nurse ~~John~~ did not evaluate me after force was used on me or after chemical agents were used on me. Pictures indicate that my head was severely swollen, therefore I very easily may have been concused. I believe this refusal of medical treatment could of easily put my life in danger. I have also had a dramatically altered sleeping pattern since the day of this event. I find myself only able to stay awake about eight hours in a day. The correctional officers on duty not only have a duty to honor a protocol that states I needed to be medically evaluated, but I was also on camera yelling "I can't breathe." The only response was the officer holding the camera saying "If you can talk you can breathe." This man had no medical training and it shows a disregard for my well being. The way my respiration was affected coupled with someone sitting on my back made it so I could not breathe, I was choking on my own mucus, but no one cared. An example of ultimate cruelty fueled by evil cameraderie.

### COUNT III

The following civil right has been violated: \_\_\_\_\_

**Supporting Facts:** [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

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**D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF**

- 1) Have you filed other actions in state or federal courts involving the same or similar facts as involved in this action? ☐ Yes ☒ No. If your answer is "Yes", describe each lawsuit. (If more than one, describe the others on an additional page following the below outline).

- a) Defendants: \_\_\_\_\_
- b) Name of court and docket number: \_\_\_\_\_
- c) Disposition (for example, was the case dismissed, appealed or is it still pending?):  
 \_\_\_\_\_  
 \_\_\_\_\_
- d) Issues raised: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- e) Approximate date it was filed: \_\_\_\_\_
- f) Approximate date of disposition: \_\_\_\_\_

- 2) Have you filed an action in federal court that was dismissed because it was determined to be frivolous, malicious, or failed to state a claim upon which relief could be granted? ☐ Yes ☒ No. If your answer is "Yes", describe each lawsuit. (If you have had more than three actions dismissed based on the above reasons, describe the others on an additional page following the below outline).

Lawsuit #1 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: \_\_\_\_\_
- b) Name of court and case number: \_\_\_\_\_
- c) The case was dismissed because it was found to be (check one): ☐ frivolous  
☐ malicious or ☐ failed to state a claim upon which relief could be granted.
- d) Issues raised: \_\_\_\_\_  
 \_\_\_\_\_
- e) Approximate date it was filed: \_\_\_\_\_
- f) Approximate date of disposition: \_\_\_\_\_

Lawsuit #2 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: \_\_\_\_\_

- b) Name of court and case number: \_\_\_\_\_.
- c) The case was dismissed because it was found to be (check one): \_\_\_\_ frivolous  
\_\_\_\_ malicious or \_\_\_\_ failed to state a claim upon which relief could be granted.
- d) Issues raised: \_\_\_\_\_  
\_\_\_\_\_.
- e) Approximate date it was filed: \_\_\_\_\_
- f) Approximate date of disposition: \_\_\_\_\_

Lawsuit #3 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: \_\_\_\_\_.
- b) Name of court and case number: \_\_\_\_\_.
- c) The case was dismissed because it was found to be (check one): \_\_\_\_ frivolous  
\_\_\_\_ malicious or \_\_\_\_ failed to state a claim upon which relief could be granted.
- d) Issues raised: \_\_\_\_\_  
\_\_\_\_\_.
- e) Approximate date it was filed: \_\_\_\_\_
- f) Approximate date of disposition: \_\_\_\_\_

- 3) Have you attempted to resolve the dispute stated in this action by seeking relief from the proper administrative officials, e.g., have you exhausted available administrative grievance procedures? ☒ Yes \_\_\_\_ No. If your answer is "No", did you not attempt administrative relief because the dispute involved the validity of a: (1) \_\_\_\_ disciplinary hearing; (2) \_\_\_\_ state or federal court decision; (3) \_\_\_\_ state or federal law or regulation; (4) \_\_\_\_ parole board decision; or (5) \_\_\_\_ other \_\_\_\_\_.

If your answer is "Yes", provide the following information. Grievance Number \_\_\_\_\_.

Date and institution where grievance was filed 2-16-2016, 4-4-2016 & 5-20-2016

Response to grievance: Time frames for both my informal grievance and my first level grievance are both expired and I have received a response on neither. NDOC regulations do not allow a filing on the second level without a response on the first, thus barring my completion of this process.

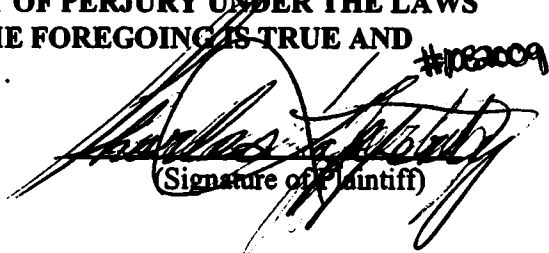
**E. REQUEST FOR RELIEF**

I believe that I am entitled to the following relief:

I request monetary damages be paid, both compensatory and punitive. I request twenty-five thousand U.S. Dollars in punitive damages per defendant be paid. I also request seventy-five thousand U.S. Dollars be awarded me in compensatory damages. This along with the payment of my filing fees, as well as any other compensation this court sees as viable.

I understand that a false statement or answer to any question in this complaint will subject me to penalties of perjury. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

\_\_\_\_\_  
(Name of person who prepared or helped  
prepare this complaint if not Plaintiff)

  
(Signature of Plaintiff)

\_\_\_\_\_  
(Date)

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(Additional space if needed; identify what is being continued)

(Continued from section C, count I, page 4)

Thus far I have an exhibit that proves I was fully restrained at the use of chemical agents. The same exhibit fails to mention that I was warned the chemicals were going to be used as protocols set forth by A.R. 406 and subsequently ACA standards dictate should be done. Also I have proof that is currently unavailable to me as of yet but will vindicate every aspect of my claim at the time of discovery.